



SENATE BILL 236: Counties Responsible for School Construction

2013-2014 General Assembly

Committee:	Senate Ref to Education/Higher Education. If fav, re-ref to Finance	Date:	May 15, 2013
Introduced by:	Sens. Hunt, Apodaca, Brunstetter	Prepared by:	Kara McCraw and Drupti Chauhan
Analysis of:	Second Edition		Committee Counsel

SUMMARY: *Senate Bill 236 would allow certain counties to be responsible for the construction, improvement, ownership and acquisition of public school property. The bill would apply to the following counties: Beaufort, Dare, Davie, Guilford, Harnett, Lee, Rockingham, Rowan, and Wake. The bill would not apply to the Kannapolis City School System.*

CURRENT LAW: Local boards of education acquire and own public school properties primarily with funds appropriated to them by local boards of county commissioners. The local boards of education are also responsible for repairs and renovations of public school property. Counties may acquire interest in real or personal property within the county for use by a local school administrative unit (LEA) but only upon the request of the local board of education of that LEA and after a public hearing.

BILL ANALYSIS:

Section 1—County Ownership of School Property: Senate Bill 236 would allow certain counties to elect by resolution to assume some or all of the responsibility for the owning, siting, acquiring, constructing, equipping, expanding, improving, repairing, and renovating of property for use by an LEA located entirely within the county. The resolution of the county commissioners must specify the terms and conditions under which the county assumes such responsibilities and can leave the LEA with the responsibility of equipment and for maintenance and repairs in categories or amounts named in the resolution. Any responsibility transferred by resolution to the county must be for a minimum of 10 years and is renewable by a subsequent resolution of the board of county commissioners in 10 year increments. Items such as furnishings and school buses would not be included in any transfer.

Consultation with LEA: The county must consult the local board of education in the siting, design, construction, equipping, expansion, improvement, or renovation of the property.

Property presently held by LEA: The county resolution may provide that any interest in real property or school capital funds presently held by the local board of education vests in the county and that any future interests in real property acquired for the use of an LEA also vest in the county. Within 30 days of the resolution, the local board of education must execute any documents or deeds needed to effectuate the transfer under the exact terms in the resolution. The county must pay for the costs of executing the documents or deeds and effectuating the transfer.

Insurance of Public School Property: A county can elect to leave current risk management programs operated by the local board of education in place; secure insurance from the insurance system operated by the State Board of Education; secure insurance from other sources; or use any combination of these options. Funds paid to a county through insurance against loss of capital assets through fire or casualty must be used to repair or replace the damaged asset or placed to the credit of the county capital outlay fund for public schools for future appropriation.



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Liability: A county is not liable for the acts or omissions of the school employees in or on school property owned, acquired, leased or improved by a county by the resolution.

Use of School Property: Any real or personal interest in school property acquired by a county through the resolution would be conclusively presumed to be for the exclusive use by the LEA for public school purposes to the same extent as if it were owned by the LEA. Any property acquired by the county from the LEA would not constitute the exercise of eminent domain and would not entitle the LEA or local board of education to any funds or other consideration for property acquired by the county through such a transfer.

Property No Longer Needed by LEA: For school property affected by a resolution, the local board of education would continue to have the exclusive authority to determine whether and when the school property is unnecessary or undesirable for public school purposes. When so informed by the local board of education, the county would then either dispose of the property and use the proceeds to reduce the county's bonded indebtedness for schools or for public school capital outlay purposes or use the property for non-school purposes and use an amount negotiated by both boards as the fair market value of the property to reduce the county's bonded indebtedness for schools or for public school capital outlay purposes.

Section 2—Use by Non-School Groups: If a county has assumed ownership of school property, then the local board of education would be able to permit the use of that property by non-school groups only as authorized by the county commissioners.

Section 3—Capital Outlay Fund: To the extent that a county has assumed responsibility for the ownership, acquisition, construction, and improvement of school property through the resolution, the capital outlay fund would not include appropriations for those purposes.

Section 4—Dispute Resolution Between the 2 Boards: This section would make conforming changes and would provide that the procedure for dispute resolution between the local board of education and board of county commissioners regarding funding would not apply to disputes over capital outlay funds for public school buildings if the county has assumed that responsibility by resolution.

Sections 5 and 6—Conforming Changes

Section 7—Erection of School Buildings: Local boards of education are required to submit long range plans for meeting school facility needs to the State Board of Education every five years and must consider the costs and feasibility of renovating old school buildings instead of replacing them. Local boards of education are responsible for providing adequate school buildings, and must provide those needs and costs as a part of the annual budget resolution to the county commissioners. This section would provide that if the county has assumed responsibility for the school buildings, the local board of education would present the needs for school buildings along with the submission of the school budget. Any disputes on the adequacy of school buildings or mobile classrooms would be resolved through mediation. The section would also make conforming changes.

Sections 8, 9, and 10—Conforming Changes

Section 11—State Board of Education Insurance System: The State Board of Education would be required to make its system of insurance for public school property available to counties for school property owned by the counties under the same terms and conditions that the LEA would have received if it had owned such property.

Section 12—Duty to Insure Property: The county would be required to insure any school building that it owns.

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Section 13 - The bill would only apply to the following counties: Beaufort, Dare, Davie, Guilford, Harnett, Lee, Rockingham, Rowan, and Wake. It would not apply to the Kannapolis City School System.

EFFECTIVE DATE: The bill would become effective when it becomes law.